

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Columbus Unified School District 493	)	File No. SLD-325089
Lawrence, Kansas	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.	)	

ORDER

Adopted: February 10, 2003

Released: February 11, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. This Order dismisses the Request for Review filed by Columbus Unified School District 493 (Columbus Unified), Lawrence, Kansas.<sup>1</sup> Columbus Unified seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) on May 21, 2002.<sup>2</sup> The Commission received Columbus Unified's Request for Review on December 2, 2002.<sup>3</sup>

2. For requests seeking review of decisions issued on or after **August 13, 2001** under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the **party** seeks to have reviewed!

<sup>1</sup> Electronic mail from Aaron Butell, Columbus Unified School District 493, to Federal Communications Commission, filed December 2, 2002 (Request for Review).

<sup>2</sup> See Request for Review; Letter from the School and Libraries Division, Universal Service Administrative Company, to Aaron Butell, Columbus Unified School District 493, dated May 21, 2002 (Funding Commitment Decision Letter). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> See Request for Review

<sup>4</sup> 47 C.F.R. § 54.720(b). See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 Rcd 339 (2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, ~~Errata~~ (Conn. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002); SLD web site, what's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>>.

Documents are considered to be filed with the Commission only upon receipt: Because the instant Request for Review was not filed within the requisite 60-day period, it will be dismissed without further consideration.

3. To the extent that Columbus Unified is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules for its underlying appeal of SLD's denial, we deny that request as well.<sup>6</sup> The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>7</sup> Columbus Unified has not shown good cause for the untimely filing of its appeal with SLD. Columbus Unified states that when the Funding Commitment Decision Letter was issued, it only reviewed the letter to ensure that all the funding requests were funded and did not realize that a reduction had taken place.\*

4. We conclude that Columbus Unified has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>9</sup> The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the burden of adhering strictly to its filing deadlines." As we have consistently held in the past, it is the applicant who has responsibility ultimately for the timely submission of its appeals.<sup>11</sup> Therefore, we conclude that Columbus Unified has failed to demonstrate special circumstances upon which its request can be granted.

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<sup>5</sup> 47 C.F.R. § 1.7

<sup>6</sup> See 47 C.F.R. § 54.720(b).

<sup>7</sup> See 47 C.F.R. § 1.3

<sup>8</sup> Request for Review at 1.

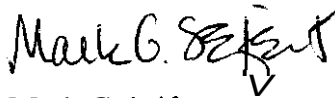
<sup>9</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>10</sup> See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Conn. Car. Bur. rel. Nov. 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

<sup>11</sup> See *FCC Overrules Caldwell Televisions Associates, Ltd.*, Public Notice, 58 RR 2d 1706, 1707 (1985).

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, **1.3**, and 54.722(a) of the Commission's rules, **47** C.F.R. §§ 0.91, 0.291, **1.3**, and 54.722(a), that the Requests for Review filed on December 2, 2002, by Columbus Unified School District 493, Lawrence, Kansas, as well as the request **to** waive the deadline for filing its appeal with SLD are DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert". The signature is stylized with a large, looped "M" and a cursive "Seifert".

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau